

Application Serial No. 10/026,161
Filed: 12/21/2001
For: Closure for a Retort Processed Container Having a Peelable Seal
Attorney's Docket No. CG-1049

REMARKS

Claims 2-9, 11, 21, 23-36 are pending in the application. Claims 5-9, 17-21, 24, 25 and 32-36 are withdrawn from consideration for examination purposes only with traverse. Claims 1, 10 and 22 were cancelled.

Applicant's acknowledge with appreciation the phone interview with Examiner on May 26, 2005 and the Examiner's helpful comments made during said interview.

The Examiner identified the claims in the instant application as being directed to two different inventions. Specifically, the Examiner has indicated that one group of claims identified as Group I are directed to a container and a closure, whereas a second group of claims identified as Group II are directed to a method of maintaining pressure on a container lip seal. The Examiner has identified the claims in Group I as being claims 2-9, 11-21, 23, and 26-36 and those in Group II as being claims 24 and 25. Applicant is herewith withdrawing claims 24 and 25, the Group II claims, with traverse, reserving the right to file a divisional application.

The Examiner has further indicated that the Group I claims are directed to three distinct species of the claimed invention and identified those as Group A which are drawn to a non-tamper-indicating, non-ventilating cap as illustrated in FIGS. 1-4 and 9; Group B claims as being those drawn to a tamper-indication, non-venting cap illustrated in FIGS. 5-7; and, Group C claims drawn to a cap having venting slits as illustrated in FIG. 8. Applicant is herewith electing those claims in Group A for examination purposes only, urging that the Group B and Group C claims are not patentably distinct species.

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However, Applicant's are withdrawing the claims for examination purposes only as required by Rule 35 USC § 121.

Applicant submits that Group A includes at least claims 2-4, 11-16, and 26-31. Group B includes claims 5-8, 17-20, 26-28, and 32-35. Group C includes claims 9, 21, 26-28 and 36. Thus, Applicant is withdrawing from consideration for examination, but with traverse, claims 5-9, 17-21 and 32-36.

Applicant submits that the instant invention is directed to a liner which is proportioned to fit firmly within a cap and abuts a top interior surface of the cap. The liner defines a resting thickness at ambient temperature and pressure conditions, is made from a material capable of being compressed to a thickness less than the resting thickness, and is capable of recovering to a recovery thickness sufficient to allow the liner to maintain a positive pressure against the cap and against a seal covering an opening in a neck of a container when the cap is affixed to the container.

Claims 2-4 are dependent claims of independent claim 26, dependent claims 11-16 are dependent claims of independent claim 27, and dependent claims 29-31 are dependent claims of independent claim 28. All of the claims are directed to limitations of a novel liner for a cap and may or may not include the inclusive limitation of a tamper indicating band or the inclusion of at least one slit in the cap. Claims 5-8, 17-20 and 32-35 are dependent claims of claims 26, 27 and 28 providing further limitations of the aforementioned claims which includes a tamper indicating band. Claims 9, 21 and 36 are dependent claims of claims 26, 27 and 28 providing further limitations of the

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aforementioned claims which includes at least one slit in the caps skirt. These claims are dependent claims of the generic claims which includes the novelty of the invention, namely, the very specific liner. Thus, since Group A, claims 2-4, 11-16, and 26-31, inherently include these limitations of the Group B and C claims, Applicants urge that the restriction requirement is unwarranted and urges that these claims in Groups B and C, should not be withdrawn for examination purposes. Thus, Applicant has made the restriction requirement directed to the Group A claims which includes claims 2-4, 11-16 and 26-31 and withdrawn from consideration for examination, claims 5-8, 17-20 and 32-35, the Group B claims, as well as claims 9, 21 and 36 the Group C claims with traverse. Applicants urge that the instant restriction requirement has been dealt with in accordance with accepted practice and urges that the instant application is now in condition for further examination. However, if the Examiner believes that there are other unresolved issues in this case, Applicants' Attorney of record would appreciate a call at (502) 584-1135 to discuss such remaining issues.

Respectfully submitted,



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